



Appeal Decision

Site visit made on 31 January 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2022

Appeal Ref: APP/B4215/W/21/3286191

Vita Student, 13 Jack Rosenthal Street, Manchester M15 4RB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by MBNL against the decision of Manchester City Council.
 - The application Ref 131282/TEL/2021, dated 19 July 2021, was refused by notice dated 21 October 2021.
 - The development is proposed rooftop telecommunications Installation and associated ancillary works.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a rooftop telecommunications Installation and associated ancillary works at land at Vita Student, 13 Jack Rosenthal Street, Manchester M15 4RB in accordance with the terms of the application Ref 131282/TEL/2021, dated 19 July 2021, and the plans submitted with it including 1550141_MAN414_79616_M005 Issue E (002 site location plan, 200 proposed shared site plan, 250 proposed shared elevation A).

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
3. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard be had to the development plan. I have had regard to the policies of the development plan¹ and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

¹ Policies DM 1, SP 1, EN 3 and CC9 of the Manchester's Local Development Framework: Core Strategy Development Plan Document (2012) and Policy DC17 of The Unitary Development Plan for the City of Manchester (1995)

4. During the determination period of the application, plans to show a shroud in association with the proposed installation were submitted to the Council. I have determined the appeal accordingly.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposal upon the character and appearance of the host building and surrounding area, and, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

6. The scheme seeks to provide a replacement installation in the cell following receipt of a notice to quit to facilitate 5G coverage. The proposed telecommunications installation would be located on the central roof area of the host building. The building has commercial uses to the ground floor and student accommodation above. I understand the materials of the building was subject to a planning condition to ensure that the appearance of the building was acceptable.
7. The Council highlight that the building is located within the First Street South Area and my attention has been drawn to the First Street Strategic Regeneration Framework. The surrounding area is characterised by a mix of uses including commercial and residential developments. At my site visit I observed that there is currently vacant development land close to the appeal site and the Council state that there are a number of approved developments nearby.
8. Along with the plans, including the plans showing the GRP screening (which state colour to match existing), the appellant submitted photomontages during the determination of the application. Although the photomontages contain a limited number of viewpoints, the submission contains sufficient detail to assess and understand the siting, design and appearance of the installation and its impact upon the host building and surrounding area. I acknowledge that the Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators. Therefore, conditions, such as relating to the colour of the scheme, cannot be secured by condition.
9. The design of the scheme is dictated by technical constraints and the appellant asserts that the height of the installation is the very lowest that works effectively for the Operator. The shroud would have a similar appearance to an upwards extension. The appellant asserts that the GRP screen has been added to shield the equipment.
10. The installation would add bulk to the roof of the host building which would disrupt its proportions. The installation would stand out and would be obtrusive from certain viewpoints, for example on Cambridge Street. Nonetheless, the installation would only occupy a small proportion of the roof and views would be limited from street level as the building is situated close to a number of other buildings of a similar height.
11. I observed on my site visit that the scheme would be visible from longer distance views, however there are various taller buildings within the skyline.

Given the density and height of buildings within the surrounding area, as well as the siting and appearance of the scheme, the installation would not unduly draw the eye from longer distance views.

12. For the reasons given above, due to its siting and appearance, the proposal would harm the character and appearance of the host building and surrounding area, albeit the harm would be limited and localised.

Suitable alternative

13. Paragraph 117 of the Framework sets out that applications, such as that proposed, should be supported by the necessary evidence to justify the proposed development.
14. I have had regard to the Site Specific Supplementary Information which details the discounted options. None of these findings are disputed by the Council and no other locations have been suggested. Consequently, there is no evidence before me to indicate that there are other alternative sites to provide coverage.

Other matters

15. The Council refer to the Mackintosh Mill which is a Grade II listed building. The Council raise no concerns in respect of the effect of the development on the setting of the listed building, and I have no substantive reason to consider otherwise. Given the context of the surrounding area, scale of the scheme and distance between the buildings, I am satisfied that the scheme would not harm the significance of the designated heritage asset. This is a neutral consideration and does not weigh in favour of the appeal.

Balance

16. The proposal would cause limited harm to the character and appearance of the host building and surrounding area. Policy DC17 of The Unitary Development Plan for the City of Manchester (1995) states that applications for telecommunications developments will normally be approved if the Council can be satisfied that the development has been sited and designed to minimise its impact on residential amenity and in environmentally sensitive areas. However, development plan policy is not determinative, and the installation is accepted in principle by virtue of Part 16 of the Order.
17. Moreover, the appellant has investigated alternative sites and there is nothing to indicate that the proposed siting is not the best available in the light of the technical and operational constraints that exist. This weighs in favour of the scheme given the importance attached to supporting the expansion of electronic communications networks, as stated in the Framework. The absence of a suitable alternative site means that the need for the installation to be sited as proposed outweighs the harm that would occur, and the proposed siting is acceptable.

Conditions

18. The Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and be

removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

19. I have had regard to the suggested conditions in the consultation responses. I do not consider it necessary to impose conditions beyond those specified in the GPDO and there is no express provision in the GPDO enabling their imposition.

Conclusion

20. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

L M Wilson

INSPECTOR